

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**JANE DOE,**

**Plaintiff,**

**vs.**

**NO. 1:18-CV-00236-JHR-LF**

**THE BOARD OF COUNTY COMMISSIONERS  
FOR THE COUNTY OF OTERO;  
OTERO COUNTY SHERIFF BENNY HOUSE;  
OTERO COUNTY DETENTION CENTER  
DIRECTOR CAROLYN BARELA;  
ERIC SCOTT KINDLEY,**

**Defendants.**

**PARTIALLY OPPOSED MOTION TO EXTEND DEADLINES  
TO RESPOND TO PENDING MOTIONS**

COMES NOW Plaintiff Jane Doe and respectfully moves the Court to extend the current deadlines to respond to Defendants Board of County Commissioners for the County of Otero, former Otero County Sheriff Benny House, and Otero County Detention Center Director Carolyn Barela's (County Defendants) Motion to Dismiss (Doc. 52) and Motion for Summary Judgment on Counts III and IV of Plaintiff's Complaint (Doc. 53), as well as Defendant Eric Kindley's Motion to Dismiss Plaintiff's Complaint (Doc. 66). As grounds, Plaintiff states:

1. Due to a number of scheduling and logistical issues, a settlement conference previously set in this case for September 30, 2019 (Doc. 61) has been reset for January 16, 2020 (Doc. 68).

**The County Defendants' Pending Dispositive Motions**

2. The County Defendants filed a motion to dismiss and a motion for summary judgment (Docs. 52 and 53) prior to the first settlement conference in this case. As Plaintiff and the County Defendants are hopeful that they will be able to resolve the pending case at a second settlement conference, they agreed that complete briefing and rulings on the pending motions

were unnecessary prior to the second settlement conference. Plaintiff thus previously requested and received extensions to respond to these motions following previously-scheduled settlement conferences. *See* Docs. 57, 63, and 64. The Court also stayed discovery and vacated all case management deadlines pending the outcome of a subsequent settlement conference (Doc. 55).

3. Consistent with the above, the County Defendants do not oppose an extension of time to respond to the pending motions until after the January 16, 2020 settlement conference. Plaintiff's responses to these motions are currently due on October 14, 2019 (Doc. 64).

**Defendant Eric Kindley's Pending Dispositive Motion**

4. On September 26, 2019, Defendant Kindley filed a motion to dismiss Plaintiff's complaint (Doc. 66).

5. Defendant Kindley is unrepresented in this case, and filed the motion *pro se*.

6. Defendant Kindley is in federal custody awaiting multiple trials on charges including aggravated sexual abuse under 18 U.S.C. § 242 in connection with his alleged abuse of other female transportees. Plaintiff's response to this motion is currently due on October 10, 2019.

7. During a September 30, 2019 status conference, the Court excused Defendant Kindley from all settlement proceedings. It is Plaintiff's understanding that Defendant Kindley will be in federal custody for the foreseeable future, and Defendant Kindley's prisoner transport business carried no insurance. The parties are proceeding with the forthcoming settlement conference with the understanding that a settlement between Plaintiff and the County Defendants would resolve all pending claims in this case against all of the named defendants, including Defendant Kindley.

8. In line with Plaintiff's and the County Defendants' agreement to extend response deadlines until after the January 16, 2020 settlement conference, Plaintiff asked Defendant

Kindley for an extension of time to respond to the pending motion to dismiss until after the settlement conference.<sup>1</sup>

9. On October 7, 2019, counsel received word from Mr. Kindley's mother that he would oppose any extension of time to respond to the pending motion. No basis was provided for the opposition.

10. As Plaintiff and the Otero County Defendants contemplate a resolution of this case that does not involve Defendant Kindley's participation, the expenditure of time and resources briefing Defendant Kindley's motion is counterproductive at this juncture, with the understanding that a successful settlement with the County Defendants will include the dismissal of Plaintiff's claims against Defendant Kindley as well.

11. Plaintiff thus respectfully requests an extension of thirty (30) days from the date of the January 16, 2020 settlement conference in order to respond to all three of the above-discussed pending motions, making the Plaintiff's new deadline to respond to all three February 15, 2020. This deadline takes into account the number of motions pending and requiring briefing, as well as other competing deadlines. The County Defendants do not oppose the requested February 15, 2020 deadline.

Respectfully submitted,

**ROTHSTEIN DONATELLI LLP**

/s/ Maggie H. Lane

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<sup>1</sup> Plaintiff asked Defendant Kindley in writing for an extension of time until January 12, 2020 to respond to Defendant Kindley's motion to dismiss. Since the mailing of this letter, however, the settlement conference has been rescheduled from December 10, 2019 to January 16, 2020.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 10th day of October 2019, I filed the foregoing pleading electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing and a copy sent to Defendant Pro Se Eric Kindley via First Class U.S. Mail, Certified Mail/Return Receipt Requested as follows:

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/s/ Maggie H. Lane  
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